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10/020,015	12/14/2001	Francois Pachet	450117-03595	8982

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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

EXAMINER	
LEROUX, ETIENNE PIERRE	

ART UNIT	PAPER NUMBER
2161	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/020,015	PACHET, FRANCOIS	
	Examiner	Art Unit	
	Etienne P LeRoux	2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 November 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26 and 28-60* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-26 and 28-60* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *14 December 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Continued Examination

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/16/2005 has been entered.

Claims Status

Claims 1-26 and 28-60 are pending: claim 27 having been cancelled. Claims 1-26 and 28-60 are rejected as detailed below.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-26, 28-60 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not include a description to support the claim 1 limitation "to select an information item to be entered into said succession to be established" such that a skilled

artisan would be convinced that applicant had possession of the invention at the time of filing instant application. In particular, it is unclear how a skilled artisan makes a selection based on distance information. Instant invention collects a plurality of distance information but does not describe how a playlist (succession to be established) is selected based on the plurality of distance information. Particularly, it is unclear where the skilled artisan starts with the compilation of the playlist particularly, the specification does not describe where to start because applicant has stored a plurality of music tiles in a plurality of sequences. Furthermore, the specification does not describe how multiple instances of adjacent pair type situations are resolved. Paragraph 96 of the specification considers that title A was just played before/after title B on n occasions. Furthermore, on m occasions title A was separated from title B on m occasions. The specification does not describe how an actual sequence is selected, i.e., title A followed by title B followed by title C followed by .....title N.

Claims 33 and 58-60 include language similar to claim 1 and thus are rejected on the same basis. Claims 2-26, 28-32, 34-57 are rejected for being dependent from a rejected base claim.

Claims 3-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 3-8, the inclusion of terms such as "adapted to" does not limit the scope of the invention because the language suggests or makes optional but does not limit a claim to a particular structure.

Dependent claim 9 is rejected for being dependent from a rejected base claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-14, 20, 21, 25, 26, 28, 32-39, 40-43, 48, 49, 53-55, and 58-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat No 6,088,455 issued to Logan et al (hereafter Logan) in view of Pub No 2002/0018074 issued to Buil et al (hereafter Buil).

Claims 1, 33, 58, 59 and 60:

Logan discloses apparatus for storing at least one sequence of information, said information being formed of a succession of information items in which an artistic or rational link is considered to exist between at least some pairs of adjacent items in said succession, comprising:

input means [Fig 1, 12] for receiving a sequence of information comprising a stream of information items in which an initial artistic or rational link is considered to exist between at least some airs of adjacent items

storage means [Fig 2, 52] for storing said information; characterized in that it further comprises

segmentation means for recovering information items from said stream of information items in response to segmentation data indicating end limits of said information items [artists and songs, col 12, lines 1-15]

means for storing said recovered information items [Fig 2, 52]

Logan discloses the elements of the claimed invention as noted above but does not disclose means for analyzing said distance information to select an information item to be entered into said succession to be established on the basis of an earlier item in said succession and a separation between said earlier item and the selected item of information [paragraph 10]. Buil discloses the elements of the claimed invention as noted above but does not disclose means for analyzing said distance information to select an information item to be entered into said succession to be established on the basis of an earlier item in said succession and a separation between said earlier item and the selected item of information [paragraph 10]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Logan to include the elements of the claimed invention as noted above but does not disclose means for analyzing said distance information to select an information item to be entered into said succession to be established on the basis of an earlier item in said succession and a separation between said earlier item and the selected item of information as taught by Buil for the purpose of making the playback more surprising and interesting [paragraph 10].

Furthermore, Buil discloses means for indexing said recovered information items with distance information indicative of relative separation between information items in the information stream [paragraph 18, saving by attribute 102]

Claims 2 and 34:

The combination of Logan and Buil discloses the elements of claims 1/33 as noted above and furthermore, Logan discloses wherein said received sequence of information is in the form of a data stream, said segmentation means being responsive to time information in said segmentation data indicating times of occurrence of said end limits of said information items for cutting up said stream automatically to extract said segments therefrom [col 9, lines 6-25].

Claim 3:

The combination of Logan and Buil discloses the elements of claim 1 as noted above and furthermore, Logan discloses wherein said segmentation means is adapted to receive segmentation data through a second input separate from said information to be stored [col 7, lines 55-60]

Claims 4 and 35:

The combination of Logan and Buil discloses the elements of claims 1, 3 and 33 as noted above and furthermore, Logan discloses wherein said segmentations means is adapted to extract said segmentation data from a website associated to a source of said sequence of information [col 7, lines 55-60].

Claims 5 and 36:

The combination of Logan and Buil discloses the elements of claims 1 and 33 as noted above and furthermore, Logan discloses wherein said segmentation means is adapted to extract said segmentation data from said sequence of information [Fig 2, 64 and col 8, lines 35-45].

Claims 6 and 37:

The combination of Logan and Buil discloses the elements of claims 1 and 33 as noted above and furthermore, Logan discloses wherein said input means is adapted to receive said sequence of information in the form audio data, and wherein said segmentation means is operative to form segments each corresponding to a music title in said sequence of information [Fig 1, 12 , col 5, lines 11-43].

Claims 7 and 38:

The combination of Logan and Buil discloses the elements of claims 1, 6, 33 and 37 as noted above and furthermore, Logan discloses wherein said input means is adapted to receive said audio data from a radio station sending a sequence of music titles in accordance with a music program [Fig 1, 12 , col 5, lines 11-43].

Claim 8:

The combination of Logan and Buil discloses the elements of claims 1 and 6 as noted above and furthermore, Logan discloses wherein said input means is adapted to receive said audio data from music compilations selected and entered by a user [Fig 1, 16, col 5, line 56 – col 6, line 8].

Claim 9:

The combination of Logan and Buil discloses the elements of claims 1, 6 and 8 as noted above and furthermore, Logan discloses wherein said music compilation is in the form of a command to download from a server selected music titles in an order corresponding to a selected succession [col 5, lines 20-30].

Claims 10 and 39:

The combination of Logan and Buil discloses the elements of claims 1 and 33 as noted above and furthermore, Logan discloses identification means connectable to a source of identification data identifying information items in said sequence of information, said identification means extracting at least some of said identification data to form an identifier, and combining means for combining with a given segment an identifier corresponding thereto, said storage means further being arranged to store said identifier in association with said segment [col 5, line 57 – col 6, line 8].

Claims 11 and 40:

The combination of Logan and Buil discloses the elements of claims 1, 10, 33 and 39 as noted above and furthermore, Logan discloses wherein said identifier includes data indicative of an attribute under which respective groups of said segments can be generically identified and classed [col 12, lines 1-14].

Claims 12 and 41:

The combination of Logan and Buil discloses the elements of claims 1, 10, 11, 33, 39 and 40 as noted above and furthermore, Logan discloses wherein said attribute corresponds to at least one type under which a music title can be classed [col 12, lines 1-14]

Claims 13 and 42:

The combination of Logan and Buil discloses the elements of claims 1, 10-12, 33 and 39-41 as noted above and furthermore, Logan discloses wherein said identifier includes artist data indicative of an artist associated with the corresponding music title, and said apparatus further

comprises means for deriving at least one said type on the basis of said artist data [col 12, lines 1-14].

Claims 14 and 43:

The combination of Logan and Buil discloses the elements of claims 1 and 33 as noted above and furthermore, Logan discloses further comprising similarity analyzing means for producing automatically similarity relations between stored segments in terms of their closeness in said sequence of stored segments [Fig 4, col 12, lines 35-42].

Claims 20 and 48:

The combination of Logan and Buil discloses the elements of claims 1 and 33 as noted above and furthermore, Logan discloses wherein said apparatus further comprises music program generating means for building a sequence of information items from said stored segments [col 2, lines 24-38].

Claims 21 and 49:

The combination of Logan and Buil discloses the elements of claims 1, 20, 33 and 48 as noted above and furthermore, Logan discloses wherein said program generating apparatus is operative to build said sequence of information items in response to user tastes expressed through user inputs [col 2, lines 24-38].

Claim 25:

The combination of Logan and Buil discloses the elements of claims 1 and 20 as noted above and furthermore, Buil discloses wherein said program generating means is responsive to a selected attribute of said information items, said selected attribute being entered through

corresponding user input, to create a sequence of information items containing at least a preponderance of information items falling under said selected attribute [paragraph 18, saving by attribute 102]

Claim 26 and 54:

The combination of Logan and Buil discloses the elements of claims 1, 20 and 25/33, 48, 49 and 53 as noted above and furthermore, Logan discloses wherein said program generating means is further responsive to a discovery parameter entered through a user input , said discovery parameter indicating a degree of closeness of said sequence to said selected attribute [col 10, lines 10-20].

Claim 28 and 55:

The combination of Logan and Buil discloses the elements of claims 1, 20, 25 and 26 as noted above and furthermore, Logan discloses wherein said program generating means is further responsive to said similarity relations between the stored segments in terms of their closeness in said sequence of stored segments, such that said information items do not fall under said selected attribute and are entered in said created sequence when said information items have a predetermined degree of closeness, as determined by said similarity relations, with an adjacent information item of said sequence [col 2, lines 25-38]

Claim 32:

The combination of Logan and Buil discloses the elements of claims 1 and 20 as noted above and furthermore, Logan discloses apparatus for producing at least one taste, said taste

being a user taste comprised of a sequence of information items produced by taking account feedback from said user, or a generic taste comprised of a sequence [abstract].

Claim 53:

The combination of Logan and Bolle discloses the elements of claims 33, 48 and 49 as noted above and furthermore, Logan discloses wherein said program generating step is carried out to take account of a selected attribute (e.g. type of music) of said information items, said selected attribute being entered through a corresponding user input, to create a sequence of information items containing at least a preponderance of information items falling under said selected attribute [col 12, lines 1-13].

Claims 15-19, 22, 24, 44-47, 50 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Logan and Buil and further in view of US Pat No 6,225,546 issued to Kraft et al (hereafter Kraft).

Claims 15 and 44:

The combination of Logan and Buil discloses the elements of claims 1, 14, 33 and 43 as noted above but does not disclose wherein said similarity analyzing means produces said similarity relations by producing, for each segment corresponding to an information item considered in a given stored sequence, a similarity relation graph expressing a distance D between that information item and other stored information items. Kraft discloses wherein said similarity analyzing means produces said similarity relations by producing, for each segment corresponding to an information item considered in a given stored sequence, a similarity relation graph expressing a distance D between that information item and other stored information items

as taught by Kraft [Fig 5]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Logan and Buil to include wherein said similarity analyzing means produces said similarity relations by producing, for each segment corresponding to an information item considered in a given stored sequence, a similarity relation graph expressing a distance D between that information item and other stored information items as taught by Kraft. The ordinarily skilled artisan would have been motivated to modify the combination of Logan and Buil per the above for the purpose of generating a thumbnail of an audio segment so that the audio segment can be recognized [Kraft, col 2, lines 15-25]

Claims 16 and 45:

The combination of Logan, Buil and Kraft discloses the elements of claims 1, 14, 15, 33, 43 and 44 as noted above and furthermore, Kraft discloses wherein said similarity relation graph contains, for each said other information item, a closeness value determined between pairs formed by said information item considered and said other information item [Fig 5].

Claims 17 and 46:

The combination of Logan, Buil and Kraft discloses the elements of claims 1, 14, 33, 43 and 44 as noted above and furthermore, Kraft discloses wherein said analyzing means is arranged to calculate said closeness value for said information item considered by attributing a first closeness value each time said other information item appears just before or just after in said sequence, said first values being cumulated over said sequence to yield a cumulated value indicating the closeness of said pair of information items [Fig 5]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of

Logan and Buil to include wherein said analyzing means is arranged to calculate said closeness value for said information item considered by attributing a first closeness value each time said other information item appears just before or just after in said sequence, said first values being cumulated over said sequence to yield a cumulated value indicating the closeness of said pair of information items as taught by Kraft. The ordinarily skilled artisan would have been motivated to modify the combination of Logan and Buil per the above for the purpose of efficiently summarizing a musical composition [Kraft, col 1, line 60 – col 2, line 6].

Claims 18 and 47:

The combination of Logan, Buil and Kraft discloses the elements of claims 1, 14, 17, 33, 43, 44 and 46 as noted above and furthermore, Kraft discloses a method of generating audio summaries of musical pieces by means of composite hierarchical structures [abstract, Fig 5]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Logan and Buil to include wherein said analyzing means is further arranged to attribute a second closeness value, smaller than said first closeness value, each time said other information item is separated from said information considered by separating information items, where m is an upper bounded number, said first and second values being cumulated over said sequence to yield a cumulated value indicating the closeness said pair of information items. The ordinarily skilled artisan would have been motivated to modify the combination of Logan and Buil per the above for the purpose of creating a brief summary of the common theme of the composition so that a listener can recognize it [Kraft, col 2, lines 7-11].

Claim 19:

The combination of Logan, Buil and Kraft discloses the elements of claims 1, 14, 17 and 18 as noted above and furthermore, Kraft discloses wherein said number m of separating information items is equal to one [Fig 5].

Claims 22 and 50:

The combination of Logan and Buil discloses the elements of claims 1, 20, 33, and 48 as noted above, however, the combination of Logan and Buil fails to disclose wherein said program generating apparatus is operative to build said sequence of information items in response to said similarity relations according to any one of claims 14 to 19, in which information items are concatenated taking their closeness into account. Kraft discloses wherein said program generating apparatus is operative to build said sequence of information items in response to said similarity relations according to any one of claims 14 to 19, in which information items are concatenated taking their closeness into account [Fig 5]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Logan and Buil to include wherein said program generating apparatus is operative to build said sequence of information items in response to said similarity relations according to any one of claims 14 to 19, in which information items are concatenated taking their closeness into account as taught by Kraft. The ordinarily skilled artisan would have been motivated to modify the combination of Logan and Buil per the above for the purpose of creating a summarization hierarchy [Kraft, col 10, lines 20-25]

Claims 24 and 52:

The combination of Logan, Buil and Kraft discloses the elements of claims 1, 20 and 22 as noted above, and furthermore, Logan discloses wherein said program generating means (48,

50) is further responsive to said similarity relations to create a sequence of information items in which information items close to disliked information items are de-emphasized and/or in which information items close to liked information items are emphasized [col 2, lines 30-38].

Claims 23 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Logan and Buil in view of US Pat No 6,558,015 issued to Eyer et al (hereafter Eyer).

Claims 23 and 51:

The combination of Logan and Buil discloses the elements of claims 1, 20, 21, 33,48 and 49 as noted above, however, the combination of Logan and Buil fails to disclose wherein said program generating means is responsive to a user input expressing a like or dislike, associated to at least some information items in said succession of information items, to create a sequence of information items in which said disliked information items tend to be removed and liked information items are emphasized. Eyer discloses wherein said program generating means is responsive to a user input expressing a like or dislike, associated to at least some information items in said succession of information items, to create a sequence of information items in which said disliked information items tend to be removed and liked information items are emphasized [col 8, lines 32-44]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Logan and Buil to include wherein said program generating means is responsive to a user input expressing a like or dislike, associated to at least some information items in said succession of information items, to create a sequence of information items in which said disliked information items tend to be removed and liked

information items are emphasized as taught by Eyer. The ordinarily skilled artisan would have been motivated to modify the combination of Logan and Buil per the above for the purpose customizing digital audio received from a radio station [Eyer, col 8, lines 32-44]

Claims 29-31, 56 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Logan and Buil in view of US Pat No 6,083,009 issued to Kim et al (hereafter Kim).

Claims 29 and 56:

The combination of Logan and Buil discloses the elements of claims 1, 20, 33, 48, and 49 as noted above, but does not disclose wherein said program generating means comprises means for labeling and storing said created sequences as objects which can be selectively exported outside said apparatus. Kim discloses wherein said program generating means comprises means for labeling and storing said created sequences as objects which can be selectively exported outside said apparatus [Fig 4, step 109,col 5, lines 45-62]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Logan and Buil to include wherein said program generating means comprises means for labeling and storing said created sequences as objects which can be selectively exported outside said apparatus as taught by Kim. The ordinarily skilled artisan would have been motivated to modify the combination of Logan and Buil per the above for the purpose of making the music list available at a remote site.

Claims 30 and 57:

The combination of Logan, Buil and Kim discloses the elements of claims 1, 20 29, 33, 48, 49, and 56 as noted above and furthermore, Logan discloses means for importing said created sequences [col 3, lines 30-42].

Claim 31:

The combination of Logan, Buil and Kim discloses the elements of claims 1, 20 and 29 as noted above and furthermore, Logan discloses playback means for receiving said segments of a selected created sequence and expressing the data contained therein in a form intelligible to a user (e.g. music, images, etc.) [Fig 1, 20].

Response to Arguments

Applicant's arguments submitted on 9/13/2004 with respect to claims 1-59 have been considered but are moot in view of the new ground(s) of rejection necessitated by applicant's claim amendment.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

The combination of Logan, Buil and Kim discloses the elements of claims 1, 20 29, 33, 48, 49, and 56 as noted above and furthermore, Logan discloses means for importing said created sequences [col 3, lines 30-42].

Claim 31:

The combination of Logan, Buil and Kim discloses the elements of claims 1, 20 and 29 as noted above and furthermore, Logan discloses playback means for receiving said segments of a selected created sequence and expressing the data contained therein in a form intelligible to a user (e.g. music, images, etc.) [Fig 1, 20].

Response to Arguments

Applicant's arguments submitted on 9/13/2004 with respect to claims 1-59 have been considered but are moot in view of the new ground(s) of rejection necessitated by applicant's claim amendment.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Etienne P. LeRoux whose telephone number is (571) 272-4022. The examiner can normally be reached Monday through Friday between 8:00 am and 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on (571) 272-4023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Etienne LeRoux
1/13/2006